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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

In Re:

BED, BATH, & BEYOND, INC., et al.,  
  
Debtors,

Case No.: 23-13359 (VFP)

Chapter 11

**DECLARATION OF SHERI THOMAS  
IN SUPPORT OF SANTA CRUZ  
COUNTY TREASURER-TAX  
COLLECTOR'S RESPONSE TO  
DEBTOR'S MOTION TO DETERMINE  
TAX LIABILITY AND STAY  
PROCEEDINGS AS TO CERTAIN  
CALIFORNIA TAXING AUTHORITIES**

Date: October 24, 2023

Time: 10:00 a.m. (ET)

Judge: Honorable Vincent F. Papalia

Courtroom: 3B

I, Sheri Thomas, declare as follows:

1. I make this declaration based upon my own personal knowledge, except for matters set forth herein on information and belief, and as to those matters, I believe them to be true, and if called upon to testify herein, I could and would competently testify as follows:

2. I am employed by the County of Santa Cruz ("County"). I have been employed by the County since 6/30/2003. I have held the positions of Appraiser, Senior Appraiser, Chief Deputy Assessor of Valuation and on 1/2/2023 I assumed the office of the Assessor-Recorder. The Assessor is a constitutionally elected official whose main duty is to set values on property. Fiduciary

1 responsibilities encompass managing, planning, organizing and directing all phases of operations  
2 in the Assessor's Office for producing an annual assessment roll. The Assessor has the  
3 responsibility for annually discovering and assessing all property within the county. The Assessor  
4 is both a manager of employees and an administrator responsible for carrying out the rules and  
5 regulations imposed by property tax laws.

6 3. The assessor is required to annually assess taxable business personal property as of  
7 the lien date (January 1). Business Personal Property includes all "Equipment out on lease, rent, or  
8 conditional sale to others" used in the operation of a business. Business Personal Property is  
9 reported to the Assessor annually on a form known as the Business Property Statement (Form 571-  
10 L).

11 4. Form 571-L constitutes an official request from the Assessor for the taxpayer to  
12 declare all assessable business property situated in the county which the taxpayer owned, claimed,  
13 possessed, controlled, or managed on the tax lien date, and that the taxpayer signs (under penalty  
14 of perjury). Failure to file the statement during the time provided in section 441 of the Revenue and  
15 Taxation Code will compel the Assessor to estimate the value of your property from other  
16 information in the Assessor's possession and add a penalty of 10 percent of the assessed value as  
17 required by section 463 of the Revenue and Taxation Code.

18 5. I am familiar with the tax records maintained by the Assessor in the normal course  
19 of business and specifically with information requested by the Assessor or furnished in the Property  
20 Statement.

21 6. On January 1, 2023, Debtor operated one retail location in the County of Santa Cruz.

22 7. Based on my review of the Assessor records it appears that Debtors submitted a  
23 Business Property Statement for 2023 to the Assessor dated May 4, 2023, and received by the  
24 Assessor on May 8, 2023. The statement was signed under penalty of perjury by their VP of Tax.  
25 Based on my review of Assessor records, I determined that the Assessor assessed the Debtor's  
26 property as it was reported by Debtors for the 2023 fiscal year. Pursuant to Revenue and Taxation  
27 Code Section 451, the Assessor is required to keep the information in the property statement secret,  
28 and therefore, cannot disclose any further details or produce a copy of the statement.

1           8.     The Tax Collector issued an unsecured tax bill for the personal property and fixtures  
2 located within Debtor's Santa Cruz County location. This tax bill is based on the values from the  
3 unsecured roll enrolled by the Assessor.

4           9.     The debtors incurred the tax liabilities claimed due pursuant to California Revenue  
5 & Taxation Code §§ 2191.3, 2191.4 and 2193.

6           10.    Pursuant to California Revenue and Taxation Code Section 2922, Unsecured  
7 (Personal) Property Taxes are due upon receipt of the Unsecured Property Tax Bill and are last due  
8 without penalty on August 31.

9           11.    If a taxpayer disagrees with the value established for a property, they should discuss  
10 the issue with the Assessor's staff in the county where the property is located. If an agreement  
11 cannot be reached, then taxpayers have a right to appeal the value under certain circumstances and  
12 limitations.

13           12.    Debtors' deadline to file a personal property appeal application for the 2023 year is  
14 November 30, 2023.

15           13.    To date, Debtors have not contacted the Assessor's Office to discuss their valuation,  
16 nor have they filed an Appeal Application for the 2023 tax year.

17           14.    In appeals involving personal property and fixtures, it may be necessary for the  
18 assessor to perform an audit of the taxpayer's records to reach a final value conclusion. The  
19 Assessor would also be required to appear at the hearing to defend its valuation, only after the  
20 taxpayer met its burden, and would do so based on accepted valuation methodologies prescribed  
21 within the Revenue and Taxation Code.

22           15.    I have reviewed the declaration submitted by Debtors in their motion to Determine  
23 Tax Liability and Stay Proceedings. Although Debtor's reference Revenue and Taxation Code 110,  
24 they did not include references and testimony as to how their evidence is in conformance with  
25 Property Tax Rules 2, 6, 10, 324, Annotation 848.0003, and case law such as Xerox Corporation v.  
26 County of Orange (1977) 66 Cal. App 3d 746. Debtor's sales data has not been presented to  
27 California Counties' for review and determination if it meets all the requirements of valuation  
28 required under California Revenue and Taxation Code and Property Tax Rules, Annotations, and

1 Case Law.

2 16. A valuation hearing in New Jersey would be very burdensome on the Assessor.  
3 Assessor staff is located exclusively in the County of Santa Cruz within the State of California.  
4 Assessor staff only appear in administrative proceedings before the Assessment Appeals Board,  
5 which are not formal court proceedings.

6 17. The County's legal advisor is the County Counsel. The attorneys of the Office of the  
7 County Counsel are not barred in New Jersey, and are thus, unable to represent the Assessor at a  
8 valuation hearing in a New Jersey court.

9 18. Uniformity of Assessment is of the utmost importance to the Assessor and required  
10 under the California Constitution. This uniformity will be placed at risk should an out of state court,  
11 rather than our local Assessment Appeals Board, make a valuation determination at a hearing  
12 without the Assessor present, and based on valuation methods that are not accepted under the  
13 Revenue and Taxation Code.

14 I declare under penalty of perjury under the laws of the State of California that the foregoing  
15 is true and correct.

16 Executed this October 14 day of October 2023, at Santa Cruz, California.

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18 *Sheri Thomas*

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20 Sheri Thomas  
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